

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

STUART KROHNENGOLD, et al.,

Plaintiffs,

v.

NEW YORK LIFE INSURANCE CO., et al.

Defendants.

Case No. 1:21-cv-01778

**ORAL ARGUMENT REQUESTED**

**NOTICE OF PARTIAL MOTION TO DISMISS  
THE SECOND AMENDED COMPLAINT**

PLEASE TAKE NOTICE that Defendants New York Life Insurance Company, the Fiduciary Investment Committee of the New York Life Insurance Employee Progress Sharing Investment Plan, the Fiduciary Investment Committee of the New York Life Insurance Agents Progress Sharing Investment Plan, Katherine O'Brien, Anthony R. Malloy, Yie-Hsin Hung, Arthur A. Seter, Scott L. Lenz, and Robert J. Hynes (collectively, "Defendants"), by their undersigned counsel, will move this Court, on a date and time to be determined by the Court, for an Order dismissing with prejudice portions of the Second Amended Complaint for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6). In support of their Motion, Defendants rely on the Memorandum in Support of Defendants' Motion to Dismiss the Second Amended Complaint, and the Declaration of Dave Rosenberg in Support of Defendants' Motion to Dismiss the Second Amended Complaint and the exhibits attached thereto, filed concurrently herewith.

Dated: September 28, 2022

Respectfully submitted,

/s/ James O. Fleckner

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